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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,133	02/09/2001	Neil J. Hayward	PPI-064	1688
959	7590	10/23/2003		
LAHIVE & COCKFIELD 28 STATE STREET BOSTON, MA 02109			EXAMINER RUSSEL, JEFFREY E	
			ART UNIT	PAPER NUMBER
			1654	

DATE MAILED: 10/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/781,133	Applicant(s) HAYWARD ET AL.	
	Examiner Jeffrey E. Russel	Art Unit 1654	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 03 October 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See attachment.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 24-32.

Claim(s) withdrawn from consideration: _____

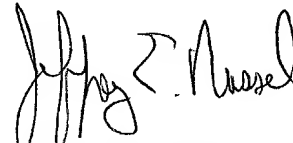
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: Attachment: Notice Of References Cited (PTO-892)

1. The proposed amendment after final rejection filed October 3, 2003 has been entered and overcomes the objection set forth in paragraph 1 and the anticipation rejection set forth in paragraph 4 of the final Office action.
2. For purposes of any appeal, the provisional obviousness-type double patenting rejection set forth in paragraph 2 of the final Office action is hereby replaced with a non-provisional obviousness-type double patenting rejection over U.S. Patent No. 6, 610,658, which has issued based upon Application No. 09/519,019. The reasons for the obviousness-type double patenting rejection are the same as those set forth in the final Office action. It is not deemed to be necessary to withdraw the finality of the previous Office action in order to make this non-provisional obviousness-type double patenting rejection. See MPEP 1208.01, second paragraph.
3. The obviousness rejection set forth in paragraph 5 of the final Office action is maintained. The examiner agrees that the WO Patent Application 98/08868 does not teach or suggest administering a P-glycoprotein inhibitor which is not a β -amyloid peptide derivative. However, this aspect of the claimed invention is suggested by Kroin et al (U.S. Patent No. 5,776,939) or the WO Patent Application 95/20980 for the reasons of record. It is permissible to rely upon multiple references in order to establish prima facie obviousness under 35 U.S.C. 103.
4. The amendment filed October 3, 2003 included a clean copy of the amended claims as Appendix A. This is improper, as there is no provision for a clean copy of amended claims under the amendment rules, and the simultaneous submission of two different sets of claims makes it difficult in the image file wrapper system to determine which set is the actual set of claims to be examined. See also ***Slide Set: Revised Amendment Format 37 CFR 1.121*** [text

version] (presented 25 September 2003; posted 10 October 2003) available at
<http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/moreinfoamdtprac.htm>.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (703) 308-3975. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Brenda Brumback can be reached at (703) 306-3220. The fax number for Technology Center 1600 for formal communications is (703) 872-9306; for informal communications such as proposed amendments, the fax number (703) 746-5175 can be used. The telephone number for the Technology Center 1600 receptionist is (703) 308-0196.



Jeffrey E. Russel

Primary Patent Examiner

Art Unit 1654

JRussel

October 21, 2003